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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

MCNALLY, DANIEL

ART UNIT	PAPER NUMBER
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1791

NOTIFICATION DATE	DELIVERY MODE
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12/09/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

Office Action Summary	Application No. 10/553,193	Applicant(s) TOFT ET AL.	
	Examiner DANIEL MCNALLY	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 11-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8 and 15 is/are allowed.
- 6) ☒ Claim(s) 11-14 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Toft et al. [WO01/85565A1, of record, previously cited, herein "Toft '565"].

Toft '565 discloses a packaging material. The packaging material comprises a first layer of an aluminum material with a paperboard backing having holes and a second layer of a different material, as shown in Figure 1.

With regard to claim 12, Toft '565 discloses the packaging material is used to make a packaging container.

With regard to claim 13, Toft '565 discloses, as shown in Figure 1, the packing material comprises paperboard material with a hole provided therein, and the hole is used for an opening in the packing container.

3. Claims 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Laciacara et al. [US6279779, of record, previously cited, herein "Laciacara"].

Laciacara discloses a packaging material as shown in Figure 3, comprising a first layer (9) of an aluminum material, a paperboard backing (5) having holes(11) and a second layer (10) of a different material.

With regard to claim 12, Laciacara discloses the packaging material is used to form a packaging container as shown in Figure 1.

With regard to claim 13, Laciacara discloses the packing container comprises an opening arrangement as shown in Figure 1, located at a hole in the paper board material (5) as shown in Figure 3.

With regard to claim 14, Laciacara discloses the packaging container comprises a screw top that is arranged to opening the packing container by removing packaging material from the hole by a screwing and pulling motion (column 7, lines 6-54).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11-13, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toft '565, in view of either one of Levendusky et al. [US5919517, of record, previously cited, herein "Levendusky"], or Kaschel et al. [EP1099544, of record, previously cited, herein "Kaschel"].

Toft '565 discloses a packaging material. The packaging laminate comprises first layer of a first material and a second layer of a different material. Toft '565 discloses the first material may be an aluminum foil, and the exposed surface of the aluminum foil can be surface treated to promote surface adhesion with the second material (page 6,

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lines 1-9; page 6, line 30 - page 7, line 9). Toft '565 discloses the aluminum foil layer is joined to a paperboard backing comprising holes therein on the side opposite the side that is surface treated. Toft '565 is silent as to the surface treatment comprising a flame treatment and a plasma treatment steps.

Levendusky discloses a method of continuously joining a first layer of a first material and a second layer of a second material to produce a packaging material. The method comprises providing a first material (10) which is an aluminum foil, subjecting one or both sides of the material to surface treatment, and joining the first material (10) to a second material (24 or 34). Levendusky discloses the surface treatment may comprise a flame treatment and a plasma treatment used in combination (column 2, lines 40-49). Levendusky suggests the purpose of the surface treatment is to improve bonding.

Kaschel discloses a method of producing a multilayer web of material with improved barrier properties. The method comprising joining an aluminum barrier layer with thermoplastic layers (paragraph 0013). Kaschel discloses preferably providing surface treatments to the layers before joining the layers, wherein the surface treatments comprise flaming or "flame treatment" and plasma treatment.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the packing material of Toft '565 by using a plasma treatment and flame treatment of the layers to be joined as taught by either one of Levendusky or Kaschel in order to improve adhesion between the joined layers.

With regard to claim 12, Toft '565 discloses the packaging material is used to make a packaging container.

With regard to claim 13, Toft '565 discloses, as shown in Figure 1, the packing material comprises paperboard material with a hole provided therein, and the hole is used for an opening in the packing container.

With regard to claim 16, Toft '565 discloses a packaging laminate comprising first layer of an aluminum material, a paperboard backing comprising holes therein and a second layer of a second material. The method of producing the laminate including a combination of plasma treatment and flame treatment is disclosed by either one of Levendusky or Kaschel, as discussed above.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toft '565, either one of Levendusky or Kaschel, and further in view of Laciacara.

Toft '565 as modified discloses a packaging container. Applicant is referred to paragraph 5 for a detailed discussion of Toft '565 as modified. Toft '565 does not disclose the container comprises a screw top that is arranged to opening the packing container by removing packaging material from the hole by a screwing and pulling motion.

Laciacara discloses the packaging container comprises a screw top that is arranged to opening the packing container by removing packaging material from the hole by a screwing and pulling motion (column 7, lines 6-54).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the container of Toft '565 to include a screw top that is arranged to

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opening the packing container by removing packaging material from the hole by a screwing and pulling motion as taught by Laciacara in order to improve the ease of opening the container.

Allowable Subject Matter

7. Claims 1-8 and 15 are allowed.

8. The following is an examiner's statement of reasons for allowance: Claim 1 was amended to require performing the plasma treatment only at the regions of the through holes. The previously cited Toft '565, Levendusky, Kashel, and Li all appear to suggest treating the entire surface with plasma treatment. The prior art of record does not disclose providing a flame and plasma treatment, wherein the plasma treatment only occurs in the region of the through holes. Claims 2-8 and 15 depend from claim 1 and are allowable for the same reasons.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

9. Applicant's arguments filed 9/1/2009 have been fully considered but they are not persuasive. Applicant argues Toft and either one of Levendusky or Kaschel fail to disclose plasma treatment performed locally at regions of the through holes. Claims 11-14 and 16 are directed toward the final article. Because the claims are article claims rather than method claims, the specific method of making the article does not limit the

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article. Applicant's argument that the plasma treatment is performed locally is directed toward the method of forming the article, rather than the structure of the article. The laminates of Toft, and Laciacara comprise all of the structural layers of the laminate. Applicant has not provided sufficient evidence that the laminate that is flame-treated and plasma treated locally is structurally different from a laminate that is not flame-treated and plasma treated locally. In any event claims 11-14 and 16 have been rejected in view of the prior art that discloses all of the layers of the laminate.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL MCNALLY whose telephone number is (571)272-2685. The examiner can normally be reached on Monday - Friday 8:00AM-4:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Daniel McNally/
Examiner, Art Unit 1791

/John L. Goff/
Primary Examiner, Art Unit 1791

DPM
November 30, 2009